

DOCKET SECTION

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION

POSTAL RATE AND FEE CHANGES, 1997

DOCKET NO. R97-1

REPLY BRIEF

OF

LABONE, INC.

OSBORN LABORATORIES, INC.

CLINICAL REFERENCE LABORATORY, INC.

RESPECTFULLY SUBMITTED,

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## I. INTRODUCTION

LabOne, Inc., Osborn Laboratories, Inc., and Clinical Reference Laboratory (“LabOne, et al.”) herewith submits their Reply Brief in opposition to the United States Postal Service’s (“USPS”) requested fifty cent per piece surcharge on Hazardous Medical Materials (“HMM”). LabOne, et al.’s evidence and Initial Brief have shown that the surcharge on HMM is not supported by any cost evidence, is unnecessary and would adversely affect the interests of LabOne, et al.

II. USPS HAS ACKNOWLEDGED THAT IT CANNOT QUANTIFY ANY SPECIAL COSTS CAUSED BY HMM AND, THEREFORE, HAS FAILED TO MEET ITS BURDEN OF PROOF.

The USPS Initial Brief merely recharacterizes some of its evidence in chief and ignores the evidence submitted by LabOne, et al. through its expert witness, Mr. Crowley, and its three (3) company representatives. USPS's Initial Brief acknowledges "The inability at this time to quantify costs caused by HMM . . . ." USPS Initial Brief at p. VI-51, fn. 55. USPS's argument that its request for a surcharge should be granted to impose "the additional costs caused by the affected OMHM and HMM mail only on the responsible mailers . . . ." (USPS Initial Brief at p. VI-51) is without evidentiary basis and is conclusory. Having admitted the inability to quantify costs, the USPS is hardly in a position to recommend a surcharge so that unknown and speculative "additional costs" will fall on LabOne, et al.

In its brief, USPS reasserts witness Currie's testimony that the affected mailers are expected to pay \$2 to \$3 for postage (USPS Initial Brief at VI-52). This does nothing to refute LabOne, et al.'s witness testimony which indicated that the laboratories' average postal rate in 1997 for HMM was 57 cents per piece (Tr. 30/16291). USPS surmises, without benefit of evidence, that other firms' per piece postage must be significantly greater than LabOne, et al.'s. The USPS's speculation is countered by evidence that LabOne, et al. are the three largest providers of risk assessment testing services to the life insurance industry in the country (Tr. 30/16290) and that the 50 cent per piece surcharge would cause a postal rate increase of eighty-seven percent (87%) to \$1.07 per piece. (Tr. 30/16291).

USPS's Initial Brief virtually ignores witness Crowley's testimony on behalf of LabOne, et al. In that testimony, witness Crowley reviewed both the classification and rate

criteria relied on by witness Currie. (Tr. 30/16304-16307). In such testimony, witness Crowley evaluated each criterion and demonstrated how witness Currie is in error. USPS's Initial Brief does not challenge or rebut witness Crowley on these points but rather summarizes witness Currie's erroneous conclusions.

The USPS in its Initial Brief does not challenge or rebut LabOne, et al.'s company witnesses who testified convincingly that in today's environment there may be no need of extra handling of HMM. For almost a decade there have been no problems with leaking packages known to LabOne, et al. (Tr. 30/16340-16341, 16354; 16372-16373). When this evidence is compared with that of USPS witness Currie, who offers no evidence of leaking packages or quantification of training costs attributable to HMM, there is not even an arguable basis to recommend the proposed surcharge.<sup>1</sup>

Finally, the USPS's Initial Brief suggests that obtaining improved data should somehow justify the 50 cent per piece proposed surcharge. Again, the USPS does not challenge witness Crowley's testimony that better communication between the USPS and its mailers, and not arbitrary rate increases, would be a better means of obtaining requested information. (Tr. 30/16308 and 30/16331-16332).<sup>2</sup>

### III. CONCLUSION

LabOne, et al.'s testimony and evidence stands unchallenged by the USPS. In consequence, the USPS has failed to meet its burden of proof, having provided no cost

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<sup>1</sup> USPS's witness John V. Currie (USPS-T-42) at p. 11 discusses the incident reports summarized in Library Reference PCR-26. LabOne, et al.'s witness Crowley showed that this report does not support a surcharge for HMM (Tr. 30/16300-16301).

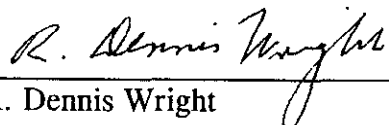
<sup>2</sup> For additional reasons why the surcharge should not be recommended by the Postal Rate Commission, see Initial Brief of Office of Consumer Advocate, pp. 176-179.

evidence or other justification to support its requested surcharge. Therefore, LabOne, et al. requests and believes the Commission should recommend that no surcharge should be applied to HMM.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.

Date: April 10, 1998.

  
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R. Dennis Wright